



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 488519 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on October 01, 2021 (the “Application”). The Landlord applied as follows:

- For an Order of Possession based on a One Month Notice to End Tenancy for Cause dated August 21, 2021 (the “Notice”)
- For reimbursement for the filing fee

The Agent for the Landlord appeared at the hearing. Nobody appeared at the hearing for the Tenant. I explained the hearing process to the Agent who did not have questions when asked. I told the Agent they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The Agent provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant did not submit evidence. I addressed service of the hearing package and Landlord’s evidence.

The Agent testified that the hearing package and Landlord’s evidence were posted to the door of the rental unit October 01, 2021. The Landlord provided photos and a receipt in relation to service showing service occurred October 07, 2021.

Based on the undisputed testimony of the Agent, photos and receipt, I find the Tenant was served with the hearing package and Landlord's evidence in accordance with sections 88(g) and 89(2)(d) of the *Residential Tenancy Act* (the "*Act*") on October 07, 2021. Pursuant to section 90(c) of the *Act*, the Tenant is deemed to have received the hearing package and Landlord's evidence October 10, 2021. I find the Landlord complied with rule 3.1 of the Rules in relation to the timing of service.

Given I was satisfied of service, I proceeded with the hearing in the absence of the Tenant. The Agent was given an opportunity to present relevant evidence and make relevant submissions. I have considered all documentary evidence submitted and all testimony of the Agent. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession based on the Notice?
2. Is the Landlord entitled to reimbursement for the filing fee?

Background and Evidence

A written tenancy agreement was submitted. The tenancy started January 01, 2014 and was for a fixed term of one year. The tenancy then became a month-to-month tenancy. Rent at the start of the tenancy was \$725.00 per month due on the first day of each month. The Tenant paid a \$362.50 security deposit and \$362.50 pet damage deposit.

The Notice was submitted. The Notice is addressed to the Tenant and refers to the rental unit. The Notice is signed and dated by the Agent. The Notice has an effective date of September 30, 2021. The grounds for the Notice are as follows:

- ☐ Tenant or a person permitted on the property by the tenant has (check all boxes that apply):
- ☒ significantly interfered with or unreasonably disturbed another occupant or the landlord.
 - ☒ seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
 - ☒ put the landlord's property at significant risk
- ☐ Tenant's rental unit/site is provided by the employer to the employee to occupy during the term of employment and employment has ended.
- ☐ Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property
- ☒ Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the landlord.
- ☒ Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely jeopardize a lawful right or interest of another occupant or the landlord.
- ☒ Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.
- ☒ Tenant has not done required repairs of damage to the unit/site/property/park
- ☒ Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Details of Cause section of the Notice outlines the issues as follows:

- The Tenant acquired a second dog in breach of the tenancy agreement
- False accusations and threats by the Tenant
- Planting shrubs on common property contrary to written direction that the Tenant not do so
- Parking an RV on common property and refusing to remove it pursuant to written requests to do so
- False accusations and threats against neighbours

The Agent testified that the Notice was attached to the door of the rental unit and emailed to the Tenant August 21, 2021. The Landlord submitted a Proof of Service to confirm service.

The Agent advised that they have become aware of File 8023 in which the Tenant disputed the Notice.

File 8023 was a dispute of the Notice filed by the Tenant September 01, 2021. A hearing took place January 13, 2022 and nobody appeared at the hearing. The Tenant's dispute was dismissed with leave to re-apply.

The Agent confirmed the grounds and issues outlined in the Notice.

The Agent mentioned a Mutual Agreement signed by the parties which was submitted. The Mutual Agreement is to end the tenancy January 31, 2022. The Agent testified that the Landlord did not withdraw the Notice at any point.

The Agent sought an Order of Possession effective two days after service on the Tenant.

The Landlord submitted the following documentary evidence:

- A letter to the Tenant dated August 11, 2021 about complaints
- Emails
- Photos

Analysis

The Notice was issued pursuant to section 47 of the *Act* and the following subsections:

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies...

(d) the tenant or a person permitted on the residential property by the tenant has

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant...
- (iii) put the landlord's property at significant risk;

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

- (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

- (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;
- (g) the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) [obligations to repair and maintain], within a reasonable time;
- (h) the tenant
 - (i) has failed to comply with a material term, and
 - (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

Based on the undisputed testimony of the Agent and Proof of Service, I find the Tenant was served with the Notice in accordance with section 88(g) of the *Act* on August 21, 2021. Pursuant to section 90(c) of the *Act*, the Tenant is deemed to have received the Notice on August 24, 2021.

Pursuant to section 47(4) of the *Act*, the Tenant had ten days from receiving the Notice to dispute it. I find based on File 8023 that the Tenant disputed the Notice September 01, 2021, within time.

Pursuant to rule 6.6 of the Rules, it is the Landlord who has the onus to prove the grounds for the Notice.

I accept the undisputed testimony of the Agent and based on it, as well as the documentary evidence submitted, I accept that the Tenant has done the things noted in the Details of Cause section of the Notice and that this has resulted in the grounds noted on the Notice. I am satisfied the Landlord has proven they had grounds to issue the Notice.

I also note that the Tenant disputed the Notice; however, did not appear at the hearing for the dispute. Further, the Tenant's dispute was dismissed with leave to re-apply and

there is no evidence before me that the Tenant did re-apply to dispute the Notice. As well, the Tenant did not appear at this hearing to dispute the Notice.

I have reviewed the Notice and find it complies with section 52 of the *Act* in form and content as required by section 47(3) of the *Act*.

Given the above, I find the Notice is valid and uphold the Notice.

I note that I accept the undisputed testimony of the Agent that the Landlord never withdrew the Notice.

I find the Landlord is entitled to an Order of Possession and issue the Landlord an Order of Possession effective two days after service on the Tenant.

Given the Landlord was successful in the Application, the Landlord is entitled to reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act* and is issued a Monetary Order in this amount.

Conclusion

The Landlord is issued an Order of Possession effective two days after service on the Tenant. This Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Supreme Court and enforced as an order of that Court.

The Landlord is issued a Monetary Order for \$100.00. This Order must be served on the Tenant and, if the Tenant does not comply with the Order, it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: February 10, 2022

Residential Tenancy Branch